

11/25/14

**28E AGREEMENT FOR
SIOUX RIVERS REGIONAL MENTAL HEALTH AND DISABILITIES SERVICES**

This Agreement is made and entered into by, between and among the undersigned counties, each having adopted this Agreement by resolution of its board of supervisors, and hereby join together to voluntarily form a public body corporate and politic and separate legal entity under Iowa Code Chapter 28E, and amendments thereto, known as Sioux Rivers Regional Mental Health and Disabilities Services ("Sioux Rivers Regional MHDS" or "the Region").

SECTION 1: IDENTITY OF THE PARTIES

The undersigned counties are political subdivisions and constitute "public agencies" as defined in Iowa Code section 28E.2. The initial member counties are: Plymouth, Sioux and Woodbury. County membership may, however, change from time to time as provided in this Agreement and the current member counties at any time shall be referred to as the "member counties" in this Agreement.

SECTION 2: PURPOSE AND GOALS

The member counties entered into this 28E Agreement to create a mental health and disabilities services region as described in the Iowa Code to provide local access to mental health and Disabilities services and to engage in any other related activity in which an Iowa 28E organization may lawfully be engaged. Further, the 28E entity is subject to the open records and open meetings requirements of Chapter 21 and 22 of the Code of Iowa.

SECTION 3: TERM AND TERMINATION

- 3.1 Term. This Agreement shall be effective when the undersigned initial member counties, as listed in Section 1 execute this Agreement and this Agreement is filed with the Iowa Secretary of State as required by Iowa Code Section 28E.8 (the "Effective Date").
- 3.2 Termination. The term of this Agreement shall be perpetual, unless terminated by: a repeal or amendment of the Iowa Code sections that result in the elimination of a statutory requirement for mental health services to be provided through a regional format; and/or a majority of the member counties approve termination of Sioux Rivers Regional MHDS.

- 3.3 Wind Up of Region. In the event the Agreement is terminated as provided in Section the Governing Board shall begin winding down Sioux Rivers Regional MHDS. If all the requirements in Section 3.2 are met by or on December 1 of any year, then this Agreement will terminate effective for the succeeding June 30th. If all the requirements in Section 3.2 are met after December 1 of any year, then this Agreement will terminate effective one calendar year from the succeeding June 30th.
- 3.4 Distribution of Assets. In the event this Agreement is terminated and Sioux Rivers Regional MHDS is dissolved, all property of Sioux Rivers Regional MHDS shall be delivered, assigned and conveyed to the member counties, pro rata based on initial contributions, to each member county.

SECTION 4: GOVERNANCE

- 4.1 Governing Board of Directors: The Governing Board of Directors shall be comprised of the following members:
- a) Each member county shall appoint two of its Supervisors to serve as a Director on the Governing Board. The Board of Supervisors of each member county shall select its Directors and they shall serve indefinitely at the pleasure of the county appointing the Directors, until a successor is appointed, or until the earlier death, resignation, or the end of such person's service as a County Supervisor. Any Director appointed under this section may be removed for any reason by the county appointing the Director, upon written notice to the Governing Board of Directors of Sioux Rivers Regional MHDS, which notice shall designate a successor Director to fill the vacancy.
 - b) At least one individual who utilizes mental health and Disabilities services, or is an actively involved relative of such an individual. This Director shall be nominated by the advisory committee described below, with such appointment to become effective upon approval by the Governing Board of Sioux Rivers Regional MHDS. This Director shall serve as an ex-officio, non-voting Director. This Director shall serve an initial term of one year, which shall begin upon the Effective Date, with appointments thereafter to be for two year terms.
 - c) At least one individual representing service providers in the Counties that comprise the Sioux Rivers Regional MHDS Region. This Director shall be nominated by the advisory committee described below, with such appointment to become effective upon approval by the Governing Board of Sioux Rivers Regional MHDS. This Director shall serve as an ex-officio, non-voting Director. This Director shall be appointed to two year terms, with the initial term beginning upon the Effective Date.

4.2 Director Vacancies.

- a) County-Appointed Directors: If a vacancy occurs during the term of a county-appointed Director, due to death, resignation, or end of service as a county supervisor of such Director, the vacancy shall be filled within thirty (30) days of its occurrence by the county having the right of appointment.
- b) Committee-Appointed Directors. If a vacancy occurs during the term of a committee-appointed Director, due to death or resignation of such Director, the vacancy shall be filled within thirty (30) days of its occurrence by the committee having the right of appointment. Such appointment to fill a vacancy shall become effective upon the approval of the Sioux Rivers Regional MHDS Governing Board.

4.3 Voting Procedures for Governing Board Members. Each County shall have one vote. A quorum must be present in order for the Governing Board to take action. A quorum shall be three county-appointed Directors, with a minimum of two counties being represented. The Governing Board shall take action by approval from the majority of the Directors present. Voting shall be done by roll call vote. Proxy voting will be allowed; furthermore, a Governing Board Director may attend meetings via electronic means and be considered present for purposes of quorum and voting.

4.5 Board Officers. The Governing Board shall organize itself and at its initial meeting elect a Chair, Vice-Chair and Secretary. Thereafter, at the first meeting each calendar year, the Governing Board shall elect a Chair, Vice-Chair and Secretary for the next ensuing one (1) calendar year.

- a) The Chair shall preside at the Board's meetings, preserve order and enforce this Agreement
- b) The Vice-Chair shall assist the Chair. During the temporary absence or Disabilities of the Chair, the Vice-Chair shall discharge the duties of the Chair. Should the Chair be permanently absent or disabled, the Vice-Chair shall succeed to the office of the Chair.
- c) The Secretary shall keep minutes of all Board meetings. The Secretary may be a Governing Board member or a County Service Coordinator.

4.6 Powers of the Governing Board. Except as otherwise provided in this Agreement, Sioux Rivers Regional MHDS shall be under the direction and control of the Governing Board of Directors and the Sioux Rivers Regional MHDS Chief Executive Officer (CEO). The Governing Board of Directors shall have each and all of the following powers:

- a) To contract with any public or private entity to provide all necessary services;
- b) To rent, lease or purchase any tangible personal property, real estate or services reasonably necessary to fulfill the purposes of this Agreement;
- c) To establish a system of accounting and budgeting, and a system for receiving payments;
- d) To retain legal counsel, accountants and other professional individuals needed in order to fulfill the purposes of this Agreement;
- e) To sue and be sued;
- f) To make and enforce bylaws or rules and regulations for the management and operation of Sioux Rivers Regional MHDS's business and affairs;
- g) To do and perform any acts authorized by the Code of Iowa, under, through or by means of its officers, agents and employees, or by contracts with any person or entity;
- h) To consult with representatives of Federal, State and local agencies and departments, and their officers and employees, and to contract with such agencies and departments;
- i) To receive funds from each member county as set forth in this Agreement;
- j) To accept grants, contributions or loans from Federal, State or local agencies;
- k) To establish the times and places for business meetings and educational conferences, and set agendas for those meetings and conferences; and
- l) To exercise any other power or do any other legal act necessary to discharge its obligations and fulfill the purposes of this Agreement.

The Board may delegate any of these powers to the Sioux Rivers Regional MHDS CEO or staff of member counties serving Sioux Rivers Regional MHDS as the Board deems necessary. The Board may adopt such policies, rules, regulations and actions not inconsistent with law or this Agreement.

4.7 Appointment of Committees

Members of any committee of the Sioux Rivers Regional MHDS shall be appointed by the Governing Board. Committee members shall serve indefinitely at the pleasure of the Governing Board, until a successor is appointed, or until the earlier death or resignation of such committee member.

4.8 Duties of Committees

The Advisory Committee, as appointed by the Governing Board, shall have up to nine members. The committee members shall be: individuals who utilize services or actively involved relatives of such individuals; service providers; a County Service Coordinator and a County Supervisor representative of the Governing Board of Directors. The Advisory Committee shall advise the Governing Board as requested by said Board and shall also make recommendations for the ex-officio members to the Governing Board as described above.

The Governing Board may take action to create additional committees for various other purposes as it deems appropriate.

4.9 Methods for Dispute Resolution

An internal dispute which cannot be resolved shall mean any action which Sioux Rivers Regional MHDS must take and for which no agreement on the particular action to be taken has been determined through the process set forth under this Agreement and such determination of action has remained unresolved for sixty calendars days. The Governing Board may appoint a Dispute Resolution Committee which would be empowered to mediate the dispute between parties.

In the event an internal dispute arises amongst or between the Governing Board, the Chief Executive Officer (CEO) or any of the member counties, which cannot be resolved, the following dispute resolution shall be used:

- a) Further mediation conducted pursuant to Chapter 679C of the Iowa Code;
- b) If after which the dispute remains unresolved, arbitration will be conducted pursuant to Chapter 679A of the Iowa Code.

5. MEMBERS

5.1 Specification, Requirements, Obligations, Expectations of Member Counties

The member Counties agree to the following:

- To respond to reasonable requests to make local records available to Sioux Rivers Regional MHDS for the purposes of this Agreement;
- To provide sufficient office space for the performance of contracted services;
- To support the effective collaboration of other county functions related to the provision of contracted services;

- To provide county staff as agreed, and only as needed, between the member county and the Governing Board for the effective provision of contracted services;
- To contribute funds as required by this Agreement; and
- To contribute funds as required by this Agreement at the time of entry into the Sioux Rivers Regional MHDS (or the Effective Date for initial member counties).

5.2 Decisions that Require a Member Vote

The Governing Board shall not have authority to, and they covenant and agree that they shall not, do, or cause Sioux Rivers Regional MHDS to do, any of the following acts without the prior consent of the Boards of Supervisors of a majority of the member counties:

- a) Permit any new member counties;
- b) Remove any member county (other than a voluntary withdrawal of a county as provided below);
- c) Terminate or amend this Agreement; or
- d) Dissolve the Sioux Rivers Regional MHDS;

5.3 Member Voting Procedure

Any question related to the issues listed in Section 5.2 above may be presented to the member counties by resolution of the Governing Board of Sioux Rivers Regional MHDS by first adopting a recommendation on the issue and then submitting it to the individual member counties. A separate explanation of the reasons for the recommendation shall be included. Each member county desiring to vote upon the proposal shall do so by resolution of its Board of Supervisors and return of the same to the Sioux Rivers Regional MHDS Governing Board Chair a certified copy of the resolution stating the County's vote within thirty (30) days of the date that the County received a copy of the proposal. Any member county not voting upon the proposal within this time shall be considered to have approved the proposal. If the proposal receives approval by majority of the votes, it shall become effective ten (10) days following the date the vote is tabulated.

5.4 Additional Member Counties

If a county wishes to become a member county of Sioux Rivers Regional MHDS after the Effective Date, the county must make a written request to the Governing Board. Such request will then be addressed through the Member Voting Procedure set forth in Section 5.3. If a new county's request is approved through such procedure, such new membership will not become effective until:

- a) the county provides a signature page to this Agreement and a resolution from its Board of Supervisors that it agrees to abide by the terms of this Agreement as set out herein and possess legal power and authority to do so; and
- b) if the new county's request has been properly approved and it has submitted the documentation in Section 5.4(a) prior to November 15th, then such membership shall become effective on the first day of the next fiscal year. If all of these requirements are not met until after November 15th then such membership shall become effective one year from the first day of the next fiscal year.

5.5 Member County Withdrawal / Removal

a) Member County Withdrawal

Any member county, by resolution of its Board of Supervisors, may withdraw from Sioux Rivers Regional MHDS by giving written notice to the Governing Board no later than November 15 prior to the end of the fiscal year the withdrawal will be effective. Withdrawal shall not relieve the withdrawing member county of the obligation to pay its share of the expenses of Sioux Rivers Regional MHDS incurred during the fiscal year in which the withdrawal occurs and any other past due amounts. Services of Sioux Rivers Regional MHDS shall continue to be provided to the withdrawing member county until the date of withdrawal, so long as such member county remains in good standing as provided in Section 5.6 below. Upon withdrawal, member counties shall not be entitled to any repayment for funds, services or property expended on behalf of the Sioux Rivers Regional MHDS.

b) Member County Removal

If the Governing Board feels it is in the best interest of Sioux Rivers Regional MHDS for a member county to be removed from Sioux Rivers Regional MHDS, the Governing Board will pass a resolution to that effect and proceed under the Member Voting Procedure set forth in Section 5.3. Upon removal, member counties shall not be entitled to any repayment for funds, services or property expended on behalf of the Sioux Rivers Regional MHDS.

5.6. Suspension of Voting Rights and Services

In the event any member county fails to make a payment to Sioux Rivers Regional MHDS as required under this Agreement for 30 days after such payment is requested in writing, then the member county will be deemed delinquent. During any period of delinquency, such member county shall not be entitled to the services of Sioux Rivers Regional MHDS, nor shall the member county be entitled to vote on matters coming before the Governing Board or the member counties unless such delinquency shall be waived by a unanimous vote of the remaining members of the Governing Board.

During any period of delinquency, the consumers of such member county will not suffer as a result.

6. STAFF

6.1 Selection Process for the Chief Executive Officer

The Sioux Rivers Regional MHDS Governing Board of Directors shall serve as the "regional administrative entity" and shall enter into an agreement with an individual to serve as a regional mental health & Disabilities services administrator, known as the Chief Executive Officer ("CEO"). While the CEO will be considered an employee of the Sioux Rivers Regional MHDS, this individual may be an employee of any member county for other purposes.

The Chief Executive Officer shall be the single point of accountability for Sioux Rivers Regional MHDS.

6.2 Performance Evaluation of the Chief Executive Office

The Governing Board shall conduct annual evaluations of the CEO. The Governing Board may conduct additional evaluations of the CEO at any time, as it deems necessary in a given situation. The Governing Board shall annually review the agreement with the CEO and shall operate under the terms of the agreement in the event an amendment or termination of the agreement is necessary in light of the CEO's performance.

6.3 General functions and responsibilities of Chief Executive Officer and County staff

At the direction of the Governing Board, the CEO will contract with member county employees to staff the needs of Sioux Rivers Regional MHDS. Staff shall include one or more coordinators of services, known as Mental Health & Disabilities Services (MHDS) Coordinators, in each of the member counties. The County MHDS Coordinator must have a bachelor's or higher degree in a human services or administrative related field. In lieu of a degree, a coordinator may provide documentation of relevant management experience.

The Board of Supervisors in each of the counties that comprise the Sioux Rivers Regional MHDS shall employ an MHDS Coordinator in their respective county. The Governance Board shall appoint that person to provide service coordination in said county.

Initially the CPC Administrator from each county will function as the MHDS Service Coordinator (Service Coordinator) for their respective county. The Service Coordinators shall remain employees of their respective counties and shall report to their particular Board of Supervisors for non - MHDS Regional responsibilities. For functions related to the Region, the Service Coordinators shall be accountable to the Sioux Rivers Regional MHDS CEO and Governing Board of Directors.

Within their respective county the MHDS Service Coordinators will have the following functions and responsibilities:

- a) Communications;
- b) Strategic Plan Development;
- c) Budget Planning and Financial Reports;
- d) Operations – personnel, benefits, space, training, etc.;
- e) Risk Management;
- f) Compliance and Reporting, Coordination with CEO;
- g) Service Processing, Authorization and Access;
- h) Provider Network- development, contracting, quality and performance;
- i) Payment of Claims;
- j) Quality Assurance;
- k) Appeals and Grievances;
- l) Information Technology; and
- m) Functional Assessment (although this may be a specialized function of 1 or more County MHDS Coordinators)

The Governing Board reserves the right to amend this list on its own motion without member approval as a non-substantive amendment as provided for in Section 8.1.

In addition to facilitating the functions above and acting as liaison to the Department of Human Services, while ascertaining regional compliance with applicable standards, the CEO will develop a Regional Mental Health and Disabilities Services (MHDS) Management Plan, which will define the type and method of service delivery to residents of the Sioux River Regional MHDS, with the cooperation and input of the County MHDS Coordinators and will submit the same to the Governing Board not later than December 31, 2013. The Regional MHDS Management Plan will be approved by the Governing Board of Directors and will become effective upon approval by the Department of Human Services.

7. REGION FINANCES

7.1 Management & Expenditure of Funding

a) General:

All MHDS funds received by the member counties for purposes related to Sioux Rivers Regional MHDS from any source, whether receipted from the state or generated within the region and/or counties shall be under the control of the Sioux Rivers Regional MHDS Governing Board. These funds shall be maintained in each individual county's Regional MHDS Fund and will be managed locally by the MHDS Coordinator, with oversight from the Chief Executive Officer on behalf of the Board. Methods for pooling where deemed necessary, management, and expenditure of the funding are further subject to the control of the CEO.

Funds in a member county's Regional MHDS Fund shall be expended only for costs approved in the regional management plan. In the event a member county's Regional MHDS Fund results in a negative equity position or negative ending cash balance in the operating budget for that member county's Regional MHDS Fund, each of the other member counties shall provide an amount necessary to cure the negative equity position or negative balance. *This circumstance is unique, constituting the only instance in which funds may be transferred from a County's Regional MHDS Fund to another County's MHDS fund.* The percentage of the total corrective amount needed that each other member county shall be required to contribute will be based on the member county's population as shown in the last completed Federal Census, for purposes of allocating a portion that each member county shall provide. Any amounts assessed under this subsection shall be repaid from the Regional MHDS Fund of the member county that had the negative equity position or negative ending cash balance in its operating budget through a transfer to the other member counties' Regional MHDS Funds at such times and in such amounts as recommended by the CEO and approved by the Governing Board to be prudent and feasible. Any repayments shall be apportioned amongst the member counties using the same formula as the original assessment.

With the approval of all member counties, the Governing Board shall set up a Joint Regional MHDS Account, which would allow for pooling of funds for a specific purpose, for instance a region-wide project designed to meet the needs of all residents regardless of their place of residence (crisis response beds, drop-in centers, etc.) and to cover

administrative costs related to management of Sioux Rivers Regional MHDS. Funds in the Joint Regional MHDS Account shall be expended only for those purposes approved by a unanimous vote of the Governing Board. The Joint Regional MHDS Account shall be managed and administered by the CEO, in consultation with the Service Coordinators from each of the member counties, and in compliance with the law, direction from the Governing Board and other written policies of Sioux Rivers Regional MHDS. The Governing Board shall appoint a fiscal agent annually, initially Woodbury County, for management of pooled funds.

b) **Administrative Funding and Resources:**

Administrative costs incurred in the course of doing business in each member county shall be paid from the MHDS Fund in that county. Administrative costs incurred on behalf of the Region shall be paid from the Joint Regional MHDS Account, and any funds or resources for administrative costs of Sioux Rivers Regional MHDS shall be collected utilizing the process for pooling regional funds.

c) **Use of Savings for Reinvestment**

Sioux Rivers Regional MHDS will make use of the budgeting process to devise a method for using surplus funds for the enhancement of existing services and the development of additional services, in order to benefit consumers throughout the region. In effecting the above, Sioux Rivers MHDS will comply with Chapters 12B and 12C of the Iowa Code for deposit and investment of Regional MHDS funds.

7.2 Process for Initial Funding to Begin Operations

On the Effective Date, the accrual fund balances in each member county's Fund 10 will come under the control of the Sioux Rivers Regional MHDS Governance Board, and will be deposited into a "Regional MHDS Fund" sited in each county.

Member Counties shall make an initial contribution to the Joint Regional Fund in an amount determined by a vote of the Sioux Rivers Regional MHDS Governing Board of Directors.

7.3 Process for Annual Independent Audit

Accounts of Sioux Rivers Regional MHDS shall be audited annually by a certified public accountant certified in the state of Iowa, as selected by the respective County Board of Supervisors and in the case of joint funds, the Governing Board.

8. SCOPE & AMENDMENTS

8.1 Amendments

The Governing Board is authorized to make non-substantive amendments to this Agreement with a two-thirds vote of board members present. All other amendments to this Agreement shall be conducted through the member approval process described in Section 5.3 and in compliance with Iowa Code Chapter 28E, which includes filing all amendments with the Iowa Secretary of State.

8.2 Entire Agreement

This Agreement represents the entire 28E Agreement of Sioux Rivers Regional MHDS.

8.3 Invalidity

If any one or more provisions of this Agreement are declared unconstitutional or contrary to law, the validity of the remainder hereof shall not be affected.

8.4 No Waiver

The waiver by any party of a breach or violation of any provisions of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach.

SIGNATURE PAGE

IN WITNESS WHEREOF, WOODBURY COUNTY EXECUTES THIS 28E AGREEMENT, CREATING
SIOUX RIVERS REGIONAL MENTAL HEALTH AND DISABILITIES SERVICES EFFECTIVE NOVEMBER
18, 2014:

BY: Mark A. Monson
(Printed name) MARK A. MONSON Board of Supervisors, Chairperson

ATTEST: Jean Jessen, Deputy
(Printed name) Jean Jessen County Auditor

ACKNOWLEDGMENT BY NOTARY

STATE OF IOWA)
) ss.
WOODBURY COUNTY)

On this 5th day of January, 2014, before me the undersigned, a Notary Public in
and for said County and State, personally appeared Mark Monson and Jean Jessen, Deputy,
me personally known, who, being duly sworn, did say that they are the Chairperson of the
Board of Supervisors and County Auditor of Woodbury County, Iowa respectively; that the seal
affixed hereto is the seal of said County; that said instrument was signed and sealed on behalf
of the said Woodbury County, Iowa, by authority of its Board of Supervisors and that said
Mark Monson and Jean Jessen, Deputy as such officers, acknowledge the execution of said
instrument to be the voluntary act and deed of said County, it and by them voluntarily
executed.

Karen James
Notary Public In and For Said County
And State of Iowa

